

REMARKS

Applicant files this Request for Reconsideration, along with a Request for Continued Examination, in reply to the final Office Action mailed January 26, 2005.

As an initial matter, Applicant would like to thank the Examiner for the courtesies extended to Applicant's undersigned representative during the telephonic interview on April 21, 2005. These remarks reflect the issues discussed during the interview.

Applicant notes that the final Office Action did not address Applicant's remarks at page 5 of the Amendment filed November 1, 2004 regarding the Petition Under 37 C.F.R. §1.48(b) filed on March 4, 2003 and the amendment to the inventorship. Applicant requests that the next Office communication indicate that the Petition is granted and the amendment to the inventorship entered. During the telephone interview, the Examiner indicated that she would enter the inventorship amendment.

At page 3 of the final Office Action, claims 15, 16, 18-20, and 24-29 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,092,526 to LaFontaine et al. ("LaFontaine"). That rejection should be withdrawn for the same reasons that were presented at pages 7 and 8 of the Amendment filed November 1, 2004, which are incorporated by reference herein. In particular, as acknowledged by the Examiner during the telephonic interview, the disclosure of LaFontaine at col. 4, lines 36-41 that is referenced on page 3 of the final Office Action relates to percutaneous coronary artery bypass procedures. Neither that disclosure, nor any other disclosure, of LaFontaine neither discloses or suggests, either inherently or otherwise, "inserting an instrument through an anterior wall of the coronary vessel" and "further inserting the instrument through a posterior wall of the coronary vessel and a

heart wall between the heart chamber and the coronary vessel to form a passageway in a heart wall" in combination with the other aspects of claim 15. Accordingly, as agreed to during the telephonic interview with the Examiner, the Section 102(e) rejection based on LaFontaine should be withdrawn.

At page 4 of the Office Action, dependent claims 21-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over LaFontaine in view of U.S. Patent No. 5,980,548 to Evans et al. ("Evans"). As the Examiner indicated that the Section 102(e) rejection based on LaFontaine would be withdrawn, the Section 103(a) rejection based on LaFontaine and Evans should also be withdrawn since Evans does not cure the above-noted deficiencies of LaFontaine.

Claims 16 and 18-29 depend either directly or ultimately from claim 15 and are therefore allowable for at least the same reasons claim 15 is allowable. Moreover, at least some of claims 16 and 18-29 recite unique features and/or combinations that are neither taught nor suggested by the cited art and therefore at least some of those claims are separately patentable.

Applicant requests the withdrawal of the outstanding rejections, the entry of the inventorship amendment requested March 4, 2003, and the timely allowance of pending claims 15, 16, and 18-29.

The final Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the final Office Action.

In discussing the claims in this Request for Reconsideration, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Request for Reconsideration and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By: _____


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